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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,437	01/14/2002	David Carroll Challener	RPS9 2001 0142	2954
47052	7590	08/04/2006	EXAMINER	
SAWYER LAW GROUP LLP PO BOX 51418 PALO ALTO, CA 94303				ZAND, KAMBIZ
		ART UNIT		PAPER NUMBER
		2132		

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/046,437	CHALLENER, DAVID CARROLL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kambiz Zand	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on RCE filed 05/26/2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 31-50 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 31,37-39 and 45-50 is/are rejected.

7)  Claim(s) 32-36 and 40-44 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 05/26/2006 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
KAMBIZ ZAND  
PRIMARY EXAMINER

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/26/2006 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action.
3. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.
4. Claims 1-30 have been cancelled.
5. New claims 31-50 have been added.
6. Claims 31-50 are pending.
7. The Examiner withdraws rejection of claims 3, 7, 18, 22 and 24 under 35 U.S.C 112-second paragraphs due to cancellation by the applicant.

***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments are also are moot

since it is based on the amendments and new matter limitation having no support in the original disclosure.

***Specification***

9. The amendment filed 05/26/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: addition of the limitation "pseudo" before the limitation "random number" in contrast with original disclosure that only disclose "random number" and NOT "PSEUDO RANDOM NUMBER" on page 3 and 4 of the response in relationship with deletion of the "third random number" from the original specification and replacing of the "fourth random number" with "third random number" are new matters.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Drawings***

10. The drawings filed on 05/26/2006 (fig.3-4) are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. No new matter should be entered. ("pseudo-random number")

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. **Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).** If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

11. **Claim 49** is objected to because of the following informalities: typo error. It is not clear claim 49 is dependent on which claim (claim 48 or 47). Appropriate correction is required.

12. **Claims 31, 39 and 47** are objected to since they do not correspond to corresponding figures in a manner that disclose the limitations of the claims in the figures. Appropriate clarification or correction is requested.

***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

14. **Claims 32-36 and 40-44** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "pseudo random number" is not supported by original disclosure.

***Claim Rejections - 35 USC § 103***

15. **Claims 31, 37-39, and 45-50** are rejected under 35 U.S.C. 103(a) as being unpatentable over Oorschot (5,850,443) in view of Eldridge (6,061,799).

16. Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. Applicant should consider the

entire prior art as applicable as to the limitations of the claims. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

**As per claims 31, 39 and 47** Oorschot (5,850,443) teach a method, a computer readable medium and a system for securely storing a key using a secure chip associated with a computer system, comprising:

Creating a migratable keyblock, the migratable keyblob containing a key having been encrypted based at least in part on use of a first random number (see fig.1;abstract;fig.3 and 4 and associated text). Oorschot (5,850,443) do not explicitly disclose the encryption of the first random number using a pass phrase that was created.

However Eldridge (6,061,799 disclose the encryption of the first random number using a pass phrase that was created (see abstract; fig.3b and 4 and associated text).

The limitation "to prevent unauthorized usage...in the migratable keblob" only disclose the intended use and the description of the use of the above limitation that is not necessary part of the claim as an active limitation (A recitation directed to the manner in which a claimed apparatus is intended to be used does not distinguish the claimed apparatus from the prior art if prior art has the capability to do so perform (See MPEP 2114 and Ex Parte Masham, 2 USPQ2d 1647 (1987)).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made to utilize Eldridge key generation of the combined password and random number in Oorschot's key management system in order to determine whether any of the

data associated with the passwords matches authentication data previously stored in the computer system and associated with the client process (see Eldridge, abstract).

**As per claims 37-38, 45-46 and 50** TPM and TCPA, are well known in the art as applicant have admitted to that fact in page 1 and 2 and the first paragraph on page 3 of the specification.

**As per claim 48** Oorschot (5,850,443) disclose having the harddisk for storing random number (see col.1, line 36-42 where the incorporation of the references having storage for such purpose).

Also it is well known in the art having a harddisk to store data including random number or any other data.

**As per claim 49** the limitations of the claim are met by fig. 2 and 4 and associated text.

#### ***Allowable Subject Matter***

1. **Claims 32-36 and 40-44** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### **Conclusion**

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Zand whose telephone number is (571) 272-3811. The examiner can normally be reached on Monday-Thursday (8:00-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone numbers for the organization where this application or proceeding is assigned is 571-272-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KAMBIZ ZAND  
PRIMARY EXAMINER

08/02/2006

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